

REMARKS

Claims 1-7 stand rejected under 35 U.S.C. §102(e) over U. S. Patent Publication No. 2004/0030601 to Pond et al. ("Pond"). Claims 8, 21-25, and 27 stand rejected under 35 U.S.C. §103(a) over Pond in view of U. S. Patent Publication No. 2004/0093281 to Silverstein et al. ("Silverstein") and claims 26 and 28-32 stand rejected under 35 U.S.C. §103(a) over Pond in view of U. S. Patent Publication No. 2004/0186760 to Metzger ("Metzger").

Regarding claim 1, claim 1 recites among numerous elements, the elements of "a radio frequency reader, said reader configured to read a radio frequency payment token presented as a payment medium for said *ad libitum* financial transaction, said radio frequency reader devoid of a capability to simulate a reader employing reader technology other than radio frequency."

With respect to the highlighted combination, the Examiner relies on Pond, paragraphs 14 and 22.

Assisted transactions are different in that the customer's payment device leaves the customer's possession. Also, the transaction value initiated at the close of the sale may be different than the final value because additional charges, such as tips and the like may be added to the transaction value. Having the payment device leave the customer's possession increases the danger of identity theft. For example, the information on a magnetic strip of a credit card may be copied by a waiter using a portable reader and used many times for bogus transactions. *U.S. Pub. No. 2004/0030601 A1, Paragraph 0014.*

Automatic identification and data capture technologies are increasingly being used to identify and track items. Radio Frequency Identification (RFID) transponders, also known as tags or tokens, provide a means of obtaining data without direct contact such as is needed with magnetic strip or bar code technology. Such transponder devices have been around for some time and have been standardized - ISO14443 A/B RFID standard. U.S. Pat. No. 3,713,148 issued to Cardullo et al. on Jan. 23, 1973, and incorporated herein by reference, describes a transponder, which includes a changeable or writable memory. An RFID system consists of a transponder, (also referred to as tag or token), with a unique electronic serial number and a reader device also referred to as an interrogator. The tags are self-contained in hermetically sealed capsules or laminates requiring no external power since they get power by rectifying the energy in a field created by the interrogator and storing the energy in capacitive-type circuitry. Nevertheless, some transponders may be powered with small batteries. RFID tags come in a variety of embodiments from a thin, flat and flexible form-factor (thin type) to small capsules (cylindrical type). An example of a thin form-factor is described in U.S. Pat. No. 5,528,222 issued to Moskowitz et al. on Jun. 18, 1996. Although the term "radio frequency" is used, other parts of the electromagnetic spectrum may be used to create the energy field. UHF, microwave and millimeter wave sources may be used by the interrogator depending on the distance between the interrogator and the transponder and material to be penetrated. Commercial examples of RFID transponders are the Texas Instruments' Registration and Information Systems (TIRIS) line of transponders available from Texas Instruments (Dallas, Tex.; www.ti.com). *U.S. Pub. No. 2004/0030601 A1, Paragraph 0022.*

The applicant has reviewed the teachings of paragraphs 14 and 22 and can find no disclosure recited to “a radio frequency reader, said reader configured to read a radio frequency payment token presented as a payment medium for said *ad libitum* financial transaction, said radio frequency reader devoid of a capability to simulate a reader employing reader technology other than radio frequency.” If the Examiner wishes to maintain the rejection of claim 1, the Examiner is respectfully requested to explain where in the relied on reference there is a disclosure relating to “a radio frequency reader, said reader configured to read a radio frequency payment token presented as a payment medium for said *ad libitum* financial transaction, said radio frequency reader devoid of a capability to simulate a reader employing reader technology other than radio frequency” in the context as recited in claim 1.

Regarding claim 8, claim 8 recites in combination with numerous additional elements, the elements of “wherein, responsive to an indication that said processor module is not configured to perform said decoding correctly, said communication module is configured to request from said remote computer-based apparatus at least one machine-readable instruction for properly configuring said processor module to decode said data.”

With regard to the highlighted elements of claim 8, the Examiner relies on paragraphs 71 and 233 of Silverstein.

FIG. 1a provides a graphic overview of the system architecture of an exemplary remote purchasing system 100 consistent with the present invention. As shown, a plurality of clients 101 are connected, e.g., using HTTP and standard web browsers, to a system back end 102, with a webserver 103 acting as the core system. The clients 101 may include, e.g., end users 104, venues 105, third-party marketers 106, members (not shown), and system administrators 107. The system back end 102 includes a database 108 (e.g., accessible via SQL) and a plurality of modules 109 in communication with the webserver 103 (e.g., via API calls), which may include, e.g., payment processing 110, billing 111, messaging 121, and third-party plugins 122. *U.S. Pub. No. 2004/0093281 A1, Paragraph 0071.*

The invention as described herein may be embodied in a computer residing on a network transaction server system, and input/output access to the invention may comprise appropriate hardware and software (e.g., personal and/or mainframe computers provisioned with Internet wide area network communications hardware and software (e.g., CQI-based, FTP, Netscape Navigator™ or Microsoft Internet Explorer™ HTML Internet browser software, and/or direct real-time or near-real-time TCP/IP interfaces accessing real-time TCP/IP sockets) for permitting human users to send and receive data, or to allow unattended execution of various operations of the invention, in real-time and/or batch-type transactions. Likewise, the system of the present invention may be a remote Internet-based server accessible through conventional communications channels (e.g., conventional

telecommunications, broadband communications, wireless communications) using conventional browser software (e.g., Netscape Navigator™ or Microsoft Internet Explorer™). Thus, the present invention may be appropriately adapted to include such communication functionality and Internet browsing ability. Additionally, those skilled in the art will recognize that the various components of the server system of the present invention may be remote from one another, and may further comprise appropriate communications hardware/software and/or LAN/WAN hardware and/or software to accomplish the functionality herein described. *U.S. Pub. No. 2004/0093281 A1, Paragraph 0233.*

The applicants have reviewed the teachings of the relied on sections of Silverstein and can find no disclosure relating to “wherein, responsive to an indication that said processor module is not configured to perform said decoding correctly, said communication module is configured to request from said remote computer-based apparatus at least one machine-readable instruction for properly configuring said processor module to decode said data.” If the Examiner wishes to maintain the rejection over Silverstein, the Examiner is respectfully requested to explain where in the relied on reference there is disclosure relating to “wherein, responsive to an indication that said processor module is not configured to perform said decoding correctly, said communication module is configured to request from said remote computer-based apparatus at least one machine-readable instruction for properly configuring said processor module to decode said data” in the context as recited in claim 8.

Applicants further note the Examiner’s rejection of claims 28–39. Regarding claims 28 – 39 the Examiner’s rejection of claims 28–39 is as follows:

Claims 28-32 recite similar limitations presented in claims 1-8, and 21-27 above. Therefore, claims 28-32 are rejected under the same rationale and same basis using the previously cited references: Pond, Silverstein, and Metzger. Claims 33-39 recite similar limitations presented in claims 1-8 and 21-27 above. Therefore, claims 33-39 are rejected under the same rationale and same basis using the previously cited references: Pond, Silverstein, and Metzger. See *Office Action dated May 10, 2010, pages 6-7.*

Applicants disagree with the assertion that claims 28–39 recite the same limitations similar to those of claims 1–8 and 21–27. A comparison between claims 28 – 39 and 21 – 27 is presented below:

Claims 1–8, 21–27	Claims 28-39
<p>1. (Original) A terminal for conducting an <i>ad libitum</i> financial transaction intermediated by a payment token, comprising: a radio frequency reader, said reader configured to read a radio frequency payment token presented as a payment medium for said <i>ad libitum</i> financial transaction, said radio frequency reader devoid of a capability to simulate a reader employing reader technology other than radio frequency; and an output device for confirming that a transaction is being performed.</p> <p>2. (Original) The terminal according to claim 1, further comprising a transaction register.</p> <p>3. (Original) The terminal according to claim 2, wherein said transaction register is operated by a salesperson.</p> <p>4. (Original) The terminal according to claim 1, further comprising a printer.</p> <p>5. (Original) The terminal according to claim 4, wherein said printer is configured to print a transaction receipt.</p> <p>6. (Original) The terminal according to claim 1, further comprising an imaging device.</p> <p>7. (Previously Presented) The terminal according to claim 6, wherein the imaging device comprises a bar code reader.</p> <p>8. (Original) A terminal for conducting a financial transaction, comprising: a radio frequency reader, said reader configured to read a selected one of a plurality of payment tokens employing dissimilar data formats, and to provide data corresponding to an elicited response from said selected one of a plurality of payment tokens employing dissimilar data formats; a memory for recording data and a machine-readable program, said memory in communication with said radio frequency reader; a communication module in communication with said radio frequency reader and said memory, said communication module configured to communicate bidirectionally with a remote computer-based apparatus; and a processor module in communication with said memory and said radio frequency reader, said processor module configured by</p>	<p>28. (New) A terminal for conducting a financial transaction, wherein the terminal comprises: an RF transponder configured to communicate with one or more RFID tags attached to one or more articles in a physical proximity of said RF transponder, said RF transponder further configured to decode tag data corresponding to said one or more RFID tags; and a communication module in communication with said RF transponder, said communication module configured to communicate bidirectionally with a remote computer-based apparatus; wherein responsive to said terminal completing a purchase of an article, said RF transponder is configured to perform at least one of: modifying a tag data stored in an RFID tag attached to said purchased article, disabling an RFID tag attached to said purchased article.</p> <p>29. (New) The terminal of claim 28, wherein responsive to an indication that said RF transponder is not configured to perform said decoding correctly, said communication module is configured to request from said remote computer-based apparatus at least one machine-readable instruction for configuring said RF transponder to decode said tag data.</p> <p>30. (New) The terminal of claim 28, further configured to be detachably attached to a shopping cart.</p> <p>31. (New) The terminal of claim 28, wherein said RF transponder is configured to communicate to a plurality of RFID tags using a command response protocol.</p> <p>32. (New) The transaction terminal of claim 28 further configured, responsive to an interaction with a user, to initiate a payment transaction.</p> <p>33. (New) A terminal for conducting a financial transaction comprising: an RF transponder configured to communicate with one or more RFID tags attached to one or more articles placed into said shopping cart, said RF transponder further configured to decode tag data corresponding to said one or more RFID tags; and a communication module in communication with said RF transponder, said communication module configured to communicate bidirectionally with a remote computer-based apparatus; wherein said terminal is configured, responsive to an interaction with a user, to initiate a purchase transaction for at least one article placed in</p>

<p>said machine-readable program to attempt to decode said data corresponding to said elicited response;</p> <p>wherein, responsive to an indication that said processor module is not configured to perform said decoding correctly, said communication module is configured to request from said remote computer-based apparatus at least one machine-readable instruction for properly configuring said processor module to decode said data.</p> <p>21. (Previously Presented) The terminal of claim 8, wherein the terminal is configured to read a payment token employing a data format particular to a specific commercial entry.</p> <p>22. (Previously Presented) The terminal of claim 8, wherein the terminal is configured to read a data format employing a data format particular to a specific retailer.</p> <p>23. (Previously Presented) The terminal of claim 8, wherein the terminal is configured to read a payment token provided by a key fob.</p> <p>24. (Previously Presented) The terminal of claim 8, further comprising an image reader and decoder for reading and decoding bar codes.</p> <p>25. (Previously Presented) The terminal of claim 8, is capable of capturing an area electronic image representation.</p> <p>26. (Previously Presented) The terminal of claim 8, further comprises a signature capture pad.</p> <p>27. (Previously Presented) The terminal of claim 8, wherein the plurality of payment terms are issued by a plurality of commercial entities.</p>	<p>said shopping card;</p> <p>wherein said terminal is configured to communicate to an exit sensor apparatus a confirmation of completing purchase transactions for all articles in said shopping cart; and</p> <p>wherein said terminal is configured to be detachably attached to a shopping cart.</p> <p>34. (New) The transaction terminal of claim 33, wherein responsive to an indication that said RF transponder is not configured to perform said decoding correctly, said communication module is configured to request from said remote computer-based apparatus at least one machine-readable instruction for configuring said RF transponder to decode said tag data.</p> <p>35. (New) A terminal for conducting a financial transaction comprising:</p> <p>an RF transponder configured to communicate with one or more RFID tags attached to one or more articles in a physical proximity of said RF transponder, by exchanging one or more bi-directional messages with said one or more RFID tags in order to decode tag data corresponding to said one or more RFID tags; and</p> <p>a communication module in communication with said RF transponder, said communication module configured to communicate bidirectionally with a remote computer-based apparatus;</p> <p>wherein responsive to an interaction with a user, said terminal is configured to read a transaction card to decode a transaction card data; and</p> <p>wherein said one or more bi-directional messages are determined based on said transaction card data.</p> <p>36. (New) The terminal of claim 35, wherein responsive to an indication that said RF transponder is not configured to perform said decoding correctly, said communication module is configured to request from said remote computer-based apparatus at least one machine-readable instruction for configuring said RF transponder to decode said tag data.</p> <p>37. (New) The terminal of claim 35, further configured to be detachably attached to a shopping cart.</p> <p>38. (New) The terminal of claim 35, wherein said RF transponder is configured to communicate to a plurality of RFID tags using a command response protocol.</p> <p>39. (New) The terminal of claim 35 further configured, responsive to an interaction with a user, to initiate a payment transaction.</p>
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An omnibus rejection of the claims "on the references and for the reasons of record" is stereotypic and usually not informative and should therefore be avoided. This is especially true where certain claims have been rejected on one ground and other claims on another ground. *MPEP 707 (d)* Further, a plurality of claims should never be grouped together in a common rejection, unless that rejection is equally applicable to all claims in the group. *MPEP 707 (d)*

While the applicants herein may have highlighted a particular claim element of a claim for purposes of demonstrating an insufficiency of an examination on the part of an Examiner, the applicants highlighting of a particular claim element for such limited purpose should not be taken to indicate that the applicants have asserted the argument of patentability that a particular claim element constitutes the sole basis for patentability out of the context of additional combinations of elements of the claim or claims in which it is present.

Regarding the claims discussed herein, the applicants' selective treatment and emphasis of independent claims of the application should not be taken as an indication that the applicants believe that the Examiner's dependent claim rejections are otherwise sufficient. Applicants expressly reserve the right to present arguments traversing the propriety of the dependent claim rejections later in the prosecution of this or another application.

It is believed that all of the pending claims have been addressed. However, failure to address a specific rejection, issue, or comment in the present file history does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made in the present file history are not intended to be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in the present file history should be construed as an intent to concede any issue with regard to any claim, except as specifically stated, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

Accordingly, in view of the above amendments and remarks, applicants believe all of the claims of the present application to be in condition for allowance and respectfully request reconsideration and passage to allowance of the application.

If the Examiner believes that contact with applicants' attorney would be advantageous toward the disposition of this case, the Examiner is herein requested to call applicants' representative at the phone number listed below.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 50-0289, under Order No. 283_412 from which the undersigned is authorized to draw.

Dated: August 10, 2010

Respectfully submitted,

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